

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JAMES FUESTON,

Plaintiff,

vs.

MICHAEL J. ASTRUE, in his capacity as
Commissioner of the Social Security
Administration,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:05-CV-134
Judge Dee Benson

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Brooke C. Wells on November 18, 2008, recommending (1) that the Commissioner's motion to affirm be denied and (2) that this case be remanded to the ALJ for additional proceedings.

The parties were notified of their right to file objections to the Report and Recommendation within ten (10) days after receiving it. Neither party has filed such an objection.

Having reviewed all relevant materials, including the reasoning set forth in the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation and denies the Commissioner's motion to affirm. The case is remanded to the ALJ for additional proceedings.

IT IS SO ORDERED.

Dated this 9th day of December, 2008.

A handwritten signature in black ink, reading "Dee Benson". The signature is written in a cursive, flowing style. The first name "Dee" is written with a large, stylized 'D' that loops around the 'e'. The last name "Benson" is written in a more standard cursive script.

Dee Benson
United States District Judge